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SUBJECT: Chief Justice Lauds Post's Judiciary Programs,
Discusses Personal Plans, Constitution

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REF: TEL AVIV 5940

11. (U) Summary: At a program planning meeting November 29, 2005 in his chambers, Israel's Supreme Court Chief Justice Aharon Barak and National Court Administration President Judge Boaz Okun told the PAO, American Center Director, and PD rule of law program specialist that he places a high value on the vast two-way exchange of legal models afforded Israel by the Embassy's active program of speakers, exchange visits, and video conferences touching diverse members of Israel's judiciary. Barak said he hopes the Embassy will continue to be able to send even larger numbers of Israeli judicial figures on exchange visits to U.S. courts and academic institutions and bring American judges and legal experts to Israel to speak at seminars on topics of mutual interest, such as the U.S. Bill of Rights or Civil Liberties and the Global War on Terror. In view of his upcoming retirement from the Supreme Court in summer 2006, after nearly 28 years of government service, Barak discussed his future plans to write, teach, and speak in Israel and abroad, including tentative plans for a stint at Yale University Law School sometime in 2007. End Summary.

Barak: "Bring More Americans Here, Send More Israeli Judges to the U.S."

12. (U) Barak suggested expanding on what he called the "extremely successful" programs held to date, which he and other judges have found highly valuable and which they think have also been beneficial for the U.S. participants. (Some of post's most recent rule of law related programs in the last two years are described in Reftel). He noted that each formal exchange visit, as well as the many informal exchanges that occur thanks to the extensive travel of many Israeli and U.S. judicial figures in both directions, adds greatly to the richness of each society, and helps continue the harmonization of Israeli law with American law and American law with legal systems of other countries. He pointed out that he and U.S. Supreme Court Justice Scalia are scheduled to be panelists in a debate in the Law Faculty of Hebrew University on January 29, 2006, focusing on "International Law in National Courts." Barak pointed to what he called a welcome increase in the study of, and interest in, comparative law in U.S. law schools and in U.S. courts, adding that American courts have lately begun to cite more frequently international cases and precedents in their decisions. Comparative domestic law and international law are both becoming more important worldwide, he added, and the legal field is not immune to the overall trend toward globalization.

13. (U) Justice Barak suggested the following ideas for possible future Embassy programming and PD exchanges:

-- Send Judge Okun to the U.S. as soon as possible (in a special IV or Volvis) to observe U.S. Specialized Courts, including drug court models.

-- Organize an in-depth week-long seminar for Israeli judges on the U.S. Bill of Rights or other topic with top legal experts

-- Send several Israeli Judges to the U.S. annually, and for longer periods of time, such as a semester or a year, to teach in U.S. universities and consult with U.S. courts. Barak said that these deeper, broader experiences can enrich the Israeli judiciary. (PD will follow up on this idea with ECA Citizens Exchanges and the Fulbright Commission.)

-- Continue Embassy programs that focus on key court administration/efficiency topics such as case management, and the related fields of mediation, ADR, and early and neutral evaluation.

-- Finally, Barak noted that an Israeli committee established to provide recommendations to the GOI regarding the future of mediation as an alternative to judicial procedures would soon provide its report. President Barak mentioned that the report will likely recommend mandatory mediation for civil cases. PD staff has met several times with the chair and members of the committee, who have requested a DVC with U.S. experts and possibly also a VolVis program in order to study the most innovative U.S. models in the area of mandatory mediation within the courts.

14. (U) Barak thanked the Embassy for what he characterized as consistent and high quality programming with Israel's judiciary over the years. He and the PAO agreed that Embassy PD staff should set up a meeting as soon as possible with Barak's designee on judicial training and enrichment programs, Judge Boaz Okun (who succeeded Dan Arbel as President of Israel's National Court Administration in the summer of 2004). Barak said he had tasked Judge Okun with developing concrete input, including suggestions for speaker and exchange topics and ideas and date timeframes, to contribute to post's plan for potential exchanges, speakers and other outreach opportunities in the medium and long term.

Personal Plans, Possible Israeli Constitution

15. (SBU) Barak said that, for the first year following his mid-2006 retirement, he plans to stay in Israel and devote more time to writing. (Note: Barak has already published an impressive number of articles and a book, "A Judge on Judging: The Role of the Supreme Court in a Democracy," while on the court. End Note.) In mid to late 2007, he plans to teach for a short period at Yale Law School, and tentatively also for a few months at either Cambridge or Oxford University in the UK in 2007-18. He emphasized that in general, he plans to spend most of his time, at least until mid-2007, in Israel, where his input seems to him most relevant and needed.

16. (SBU) Asked for his views on whether a draft Israeli Constitution (which has been under development in a process of town hall dialogues and in the Knesset's Constitution, Law and Justice Committee) might be brought before the Knesset during his remaining time on the bench, he said that he does not expect a draft Constitution or anything of that level of import to be considered until after nationwide elections scheduled for March 28. He did not speculate on whether the effort to pass a Constitution would succeed or fail in the long term.

JONES